

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

00-CR-6139CJS

ORDER

RICKY BLUE

Defendant.

In accordance with the Second Circuit's order remanding this case pursuant to *United States v. Regaldo*, 518 F.3d 143 (2d Cir. 2008), to give this Court an opportunity to indicate whether it would have imposed a non-Guidelines sentence knowing that it had discretion to deviate from the Guidelines based upon the Supreme Court's holding in *Kimbrough v. United States*, 128 S.Ct. 558 (2007), which held that district courts, in imposing sentence, may consider the disparity between the Guidelines' treatment of crack and powder cocaine offenses,

NOW, having fully considered the disparity between the Guidelines ranges applicable to cocaine and cocaine base offenses, and having heard the considered arguments of the parties, and upon a thorough review of each of the sentencing factors listed in 18 U.S.C. § 3553(a), this Court hereby declines to resentence the

defendant to a non-Guideline sentence for the reasons set forth in the attached bench decision transcript.

IT IS SO ORDERED.

Dated: February 5, 2009

Charles Siragusa
HON. CHARLES J. SIRAGUSA
United States District Judge

cc: Van Henri White, Esq.
Counsel for Ricky Blue